

REMARKS

This amendment is offered in response to the Office Action of March 13, 2008.

The Office Action rejected Claims 1-2, 5 and 13-24 under 35 U.S.C. §103(a) as being obvious over the Whalley reference (U.S. Patent Publication 2003/0225657 A1) in view of the E*Trade reference (“Option Centre: Covered Combinations”).

At the outset, this is an obviousness rejection based on the combination of two references wherein the Office Action is relying upon hindsight to take pieces from each reference and arbitrarily combine these pieces. It is respectfully submitted that this is improper, particularly in view of the secondary considerations of extraordinary and unexpected results achieved with the presently claimed invention. In other words, if this claimed invention were obvious, then this claimed invention would have been used long ago in order to achieve these extraordinary results. It is respectfully submitted that the only way that such results were not achieved in the past is that the presently claimed invention is not obvious. It should be further considered that the best minds in the country have been striving for decades to find trading strategies to “beat the market”.

Filed simultaneously herewith is a Declaration Under Rule 132 documenting the extraordinary and unexpected results achieved by the use of this claimed invention. It is respectfully submitted that these results are far beyond what would be predicted by one of ordinary skill in the art. It is therefore respectfully submitted that this showing of “secondary considerations” is sufficient to overcome the obviousness rejection. It is therefore respectfully submitted that this rejection is overcome and the presently pending claims should be allowed.

Moreover, upon examination, one finds substantial differences between the Whalley

reference and the presently claimed invention. The Office Action, on numbered page 4, states that the Whalley reference at page 2, numbered paragraph 16, teaches "purchasing shares of a plurality of stocks". Applicant's best interpretation of numbered paragraph 16 of the Whalley reference is that an index is "designed to reflect on a portfolio that invests in [the S&P 500 stocks with subsequent discussion of alternative indices]". It is respectfully submitted that designing an index is different from purchasing each of the individual stocks. It is respectfully submitted that the discussion of designing an index to reflect the S&P 500 contemplates the purchasing of 500 individual stocks. Similarly, numbered paragraph 15 of the Whalley reference appears to disclose the writing of covered calls out of a portfolio, but has nothing to do with the writing of puts out of the same portfolio. While the e*Trade reference does indeed disclose the writing of "covered combinations", it appears that this is only for a single stock.

Therefore, the present claims are in immediate condition for allowance.

Respectfully submitted,



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